

TO: Deputy Chief Administrator
Civilian Office of Police Accountability

FROM: Investigator A, #XXX
Major Case Specialist

DATE: September 19, 2017

REFERENCE: Log# 1076425/U#15-016
RD# XX-XXXXXX (Assault- Aggravated to Police Officer: Handgun)

INCIDENT DATE/TIME: July 30, 2015, at approximately 3:15 a.m.

LOCATION: XXXX S. Calumet Avenue - Residence

INITIAL INCIDENT: Cook County Sheriffs attempted to serve warrant for arrest

INVOLVED OFFICER #1: Officer A; Chicago Police Officer; Star #XXXXXX; Unit XXX; White Male; Employee #XXXXXX; DOB: XX Oct XX; DOA: XX Sep XX; On-Duty; In Uniform; Assigned to Beat XXXXX.

WEAPON: Smith & Wesson, model M&P; 233/5.56 caliber; semi-automatic pistol; Serial #XXXXXXX; City Registration #XXXXXXXX; FOID #XXXXXXXX; (27) live rounds recovered from firearm; Weapon capacity of 30 + 1 rounds;¹ Fired one (1) time.

INJURIES: None reported

INVOLVED OFFICER #2: Officer B; Chicago Police Officer; Star #XXXXXX; Unit XXX; White Male; Employee #XXXXXX; DOB: XX Aug XX; DOA: XX Aug XX; On-Duty; In Uniform; Assigned to Beat XXXX.

WEAPON: Bushmaster; model XM15; 223/5.56 caliber; rifle; Serial #XXXXXXXX; City Registration #XXXXXXXX; FOID #XXXXXXXX; (29) live rounds recovered from firearm; Weapon capacity of 30 + 1 rounds;² Fired twenty-three (23) times. Reloaded weapon during incident.

INJURIES: None reported

¹ The gun magazine had a capacity of thirty (30) rounds plus one in the chamber.

² The gun magazine had a capacity of thirty (30) rounds plus one in the chamber.

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INVOLVED

OFFICER #3:

Officer C; Chicago Police Officer; Star #XXXXXX; Unit XXX; Hispanic Male; Employee #XXXXXX; DOB: XX Dec XX; DOA: XX December XX; On-Duty; In Uniform; Assigned to Beat XXXXXX.

WEAPON:

Bushmaster; model XM15-E2S; 223/5.56 caliber; rifle; Serial #XXXXXXXX; City Registration #XXXXXXXX; FOID #XXXXXXXX; (31) live rounds recovered from firearm; Weapon capacity of 30 + 1 rounds;³ Fired eighteen (18) times. Reloaded weapon during incident.

INJURIES:

None reported

WITNESS

OFFICER #1:

Sergeant A ; Chicago Police Sergeant; Star #XXXX; Unit XXX; Hispanic Male; Employee #XXXX; DOB: XX Nov XX; DOA: XX Nov XX; On-duty; In Uniform; Assigned to Beat XXXX.

SUBJECT:

Subject 1; DOB: XX Jan XX; Address: XXXX S. Calumet Avenue, Chicago, IL; IR #XXXXXXXX.

WEAPON:

Smith & Wesson model SW40VE; .40 caliber; semi-automatic pistol; Weapon capacity of 14 + 1.⁴

INJURIES:

Five total gunshot wounds as follows: one gunshot wound to the right hand, right flank, and left shoulder, and through-and-through gunshot wounds to the left wrist and the left foot. Non-Fatal.

³ The gun magazine had a capacity of thirty (30) rounds plus one in the chamber.

⁴ The gun magazine had a capacity of fourteen (14) rounds plus one in the chamber.

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SUMMARY OF INCIDENT

On July 29, 2015, at approximately 7:15 p.m., Cook County Sheriffs attempted to serve an arrest warrant on Subject 1 at his residence. After the Sheriffs rang the doorbell, Subject 1 appeared in the window. Subject 1 appeared to be very upset and began yelling obscenities at the Sheriffs. Subject 1 then exited his front door with a pistol in his hand and a large dog alongside him. Subject 1 continued yelling at the Sheriffs and then reentered his house. Subject 1 barricaded himself in his house for over seven hours. During this time, Chicago Police, including a Chicago SWAT team, arrived and surrounded the house.

After negotiations were unsuccessful, the SWAT team launched tear gas into Subject 1' house at approximately 3:07 a.m. on July 30, 2015. Subject 1 exited his house through his back basement door and attempted to gain entry into his detached garage that was occupied by approximately nine SWAT Officers. When the officers blocked his entry, Subject 1 broke the glass of a garage window with his gun and began pointing the gun into the garage at the officers. Subject 1 was also yelling that he was going to kill the officers. Subject 1 returned to his house and then immediately came back towards the garage and pointed his gun towards the garage. Upon observing this, two of the officers, Officer C and Officer B, discharged their firearm at Subject 1. Subject 1 took cover behind the stairwell of his basement but continued to point his gun towards the officers. Officer C and Officer B, along with one other officer, Officer A, again discharged their firearms at Subject 1. A fourth officer, Sergeant A, threw a flashbang that discharged near Subject 1. Subject 1 retreated into his basement and, seconds later, he surrendered to the SWAT team.

Subject 1 was shot several times and survived.

INVESTIGATION

IPRA⁵ obtained relevant video, forensic, and documentary evidence associated with this incident. Additionally, IPRA interviewed Sheriff A, Sheriff B, Sheriff C, and Sheriff D, who witnessed various aspects of this incident as well as the events that took place prior to the Officer Involved Shooting. IPRA also interviewed Involved Police Officer C, Officer B, and Officer A, and Witness Sergeant A and Sergeant B.

IPRA attempted to interview Subject 1, but he did not wish to provide a statement regarding the incident. (Att. 17, 27)

The following are summaries of the relevant evidence obtained in this investigation:

Cook County Sheriff Interviews

In interviews with IPRA on December 30, 2015 and February 10, 2016 **Sheriff A, Sheriff B, and Sheriff C** stated that on July 29, 2015, all three Cook County Sheriffs and their partner, Sheriff E, had an Order of Protection with a domestic battery arrest warrant attached to serve on Subject 1. The Sheriffs arrived at Subject 1' house, XXXX S. Calumet Avenue, at approximately 7:15 p.m. Sheriff A and Sheriff E covered the rear of the house and Sheriff B and Sheriff C approached the front of the house. The house was a two-story, single-family home with a basement. There was a detached garage behind the house that opened to an alley. There were vacant lots on both sides of the house.

⁵ COPA replaced IPRA.

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Sheriff B and Sheriff C rang the front doorbell. Subject 1 lifted a window and started yelling at the Sheriffs, “what the fuck do you want, get the fuck away from my building.” Sheriff C stated that they needed to talk to him and that they had some paperwork for him. Subject 1 shut the window.

Subject 1 exited the house through the front door onto the porch and continued yelling obscenities at the Sheriffs. He then reentered the house and stated “I’ve got somethin’ for you.” Subject 1 came back out to the porch with a semiautomatic pistol and a large dog. Sheriff C yelled at Subject 1 to drop the gun. Subject 1 told Sheriff C to drop his gun and said “I’ll light you up.” Subject 1 yelled some more obscenities, reentered the house, and slammed the door.

Sheriff B did not see a gun because his view of Subject 1 was partially blocked but based on Sheriff C’s statement that Subject 1 had a gun, Sheriff B radioed to the dispatcher that Subject 1 had a gun. At this point, Sheriff E retrieved his patrol rifle from his vehicle and he and Sheriff A began covering the front of the house while Sheriff B and Sheriff C covered the back.

Sheriff A recalled seeing Subject 1 through the living room window of the house and he saw Subject 1 carrying a gun. Sheriff A announced his office repeatedly and told Subject 1 that they had a warrant for his arrest. Sheriff A also stated that the warrant was for a misdemeanor and told Subject 1 not to “make it any more serious than it has to be.” Subject 1 began to move around the house including to the second floor and the basement. Subject 1 continued to yell obscenities at the Sheriffs and also stated that he was “not going to jail.”

Chicago Police began arriving at the scene approximately five minutes after Sheriff B radioed to dispatch that Subject 1 had a gun. Sheriff B stated that ten minutes after he radioed that message, there were approximately twenty officers on the scene. Sheriff A stated that, at some point, he saw Subject 1 open a window, look around at the police officers arriving, and then smile and wave at Sheriff A. Sheriff A thought this was very strange. The SWAT team arrived at approximately 9:00 p.m., and the Sheriffs were relieved of their positions surrounding the house. The Sheriffs gave the SWAT team information regarding what had transpired and the layout of the house. Sheriff A, Sheriff B, and Sheriff C remained on the scene for several hours but none of the Sheriffs were at the scene when the shooting occurred. (Atts. 67, 72, 77)

In an **interview with IPRA** on March 22, 2016, **Cook County Sheriff D**, stated that on July 29, 2015, he was on duty and heard a radio transmission from his co-workers that there was man with a gun barricaded at XXXX S. Calumet Ave. Sheriff D drove to the scene and there were already several Chicago police officers surrounding the house. Sheriff D stayed at the scene for several hours and assisted in securing it. Sheriff D stated that he heard approximately two or three gunshots from a smaller gun, followed by gunshots from a larger gun, and then he heard a radio transmission, “he’s shooting at us.” Sheriff D stated that he heard approximately fourteen gunshots in total. (Att. 81)

IPRA attempted to interviewed Cook County Sheriff E on several occasions, but was unsuccessful. (Att. 91)

Police Officer Interviews

In an **interview with IPRA** on July 31, 2015, **Witness Sergeant A, #XXXX**, stated that on July 29, 2015, he was on duty dressed in BDU, battle dress uniform.⁶ Sergeant A was training with his team on the north side when they received a message that there was a barricaded subject incident and that his team should report to the

⁶ Sergeant A described the BDU as a green style uniform.

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scene. Sergeant A and his team arrived at the scene of the barricaded subject at approximately 8:30 p.m. Sergeant A and his team put on their equipment and reported to Command on the scene to be debriefed on the situation. Sergeant A learned that the barricaded subject was a male armed with a gun.

Sergeant A and his team relocated to the back of the house near the detached garage. They were able to gain access into the garage after using a tool to peel a panel from the garage. Once inside the garage, Sergeant A and his team observed the house while negotiations with Subject 1 were taking place. Sergeant A estimated that there was a total of nine officers in the garage. Sergeant A was able to observe the house through a small window next to the entry door into the garage that faced the back of the house. Sergeant A and his team also became aware of Subject 1's appearance and identity through their issued Blackberries. Sergeant A also learned that Subject 1 was former military and had previously served as a police officer in Gary, Indiana.

While Sergeant A was in the garage, attempts were made to negotiate Subject 1's surrender through a negotiator, CPD Sergeant B, #XXXX. After some time had passed, the officers were not receiving any signs of Subject 1 being inside the house and began to believe there was a possibility that Subject 1 had committed suicide. As a result, Sergeant A's team received clearance to introduce tear gas into the house. An officer shot a gas canister from a launcher into a second floor window on the back of the house.

The tear gas agitated Subject 1 and Sergeant A heard on the radio that Subject 1 came to the front door and engaged the team covering the front of the house. Soon after, Officer B and Officer C, who were near the garage window, observed Subject 1 run out of the basement door from the back of the house, up a stairwell to the backyard, and to the garage entry door while carrying a gun. Subject 1 began kicking and pushing the door attempting to gain entry to the garage. Officer B was standing behind the garage entry door and blocked Subject 1 from entering. Officer C began yelling at Subject 1 to drop his gun.

Subject 1 stuck his gun through the open window, pointing it towards the officers inside, and said "I got somethin' for you mother fuckers." Subject 1 next retreated back to the house but then immediately came back out to the backyard. Officer C again yelled at Subject 1 to drop the gun and then began to discharge his firearm at Subject 1. Subject 1 retreated to the basement stairwell and the shooting stopped. Subject 1 then held his gun above his head over the ledge of the stairwell and pointed it at the officers. At this time, Officer C again discharged his firearm at Subject 1. Officer B opened the garage entry door and also discharged his firearm at Subject 1.

Officer B stepped into the backyard and Sergeant A told Officer B that he was going to use a flashbang on Subject 1 to disorient him. Sergeant A then threw a flashbang at the stairwell but it bounced back and discharged near the officers. Sergeant A threw another flashbang and it discharged in the stairwell. Subject 1 reacted to the flashbang and retreated back into the house through the basement door.

The officers came out of the garage into the backyard and illuminated the basement door with their lights. Subject 1 continued yelling at the officers and, moments later, he called for the officers to get him medical attention. The officers told Subject 1 that he had to come to them and Subject 1 crawled out to the stairwell without a gun in his hand.

Sergeant A grabbed Subject 1 and handcuffed him. Sergeant A waited with Subject 1 until the paramedics arrived in the backyard. Sergeant A recognized Subject 1 from when they had both worked as police officers in the 15th District. Sergeant A stated that a gray semiautomatic handgun was recovered at the scene in the basement hallway. Officer B and Officer C verified that it was the gun that Subject 1 was carrying in the backyard. (Att. 19)

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In an **interview with IPRA** on August 5, 2015, **Involved Officer C, #XXXXX**, stated that on July 29, 2015, he was off duty and was called to work at approximately 7:30 p.m. in relation to an HBT⁷ incident. Officer C put on his BDU, battle dress uniform,⁸ and drove to XXXX S. Calumet Avenue. Officer C was a member of the Chicago Police SWAT team and his rank was team leader ultimate. Officer C was second in command to the team leader, who was Officer B.

When Officer C arrived at the scene, he was directed to the garage where the rest of his team was already positioned. Officer C recalled there being negotiations with the barricaded subject who had been identified as Subject 1. Officer C knew Subject 1 from when they were in the same Chicago Police Academy class in 1996. At some point, Command decided to introduce tear gas into the house. A member of Officer Sheriff C's team, Officer E, used a launcher to shoot a tear gas canister into a second floor window on the back of the house. Officer C provided shielding for Officer E with a ballistic shield while he launched the canister. A few minutes after the gas was released, Subject 1 exited the house through the front door with a gun. Officer C could hear him yelling at the officers stationed in the front of the house. Officer C then heard over the radio that Subject 1 had reentered the house.

Officer C and Officer B were both positioned near a window on the back of the garage next to the garage entry door. Officer B was observing the back of the house through the window and, soon after Subject 1 reentered the house, Officer B yelled that Subject 1 was exiting the back door and had a gun. Subject 1 walked to the garage entry door and attempted to open it. Officer C recalled Subject 1 kicking and pushing the door and stating that he was going to kill the officers inside the garage. Officer B stepped behind the door and pushed against it to keep Subject 1 from opening it. Officer Sheriff C assisted Officer B in keeping the door shut.

Officer Sheriff C then saw a gun break the garage window and come through the open window while pointing inside the garage. There was a ballistic blanket that the SWAT team had hung on the window and Officer C repositioned the blanket to cover the entire window. Officer C saw Subject 1's hand as he forced the gun into the ballistic blanket. The officers were yelling at Subject 1 to drop the gun. Officer C then heard shuffling and looked out the window. Officer Sheriff C saw Subject 1 reentering the house through the basement door and slam the door behind him.

Officer C repositioned near the window with his firearm outside the window and his line of sight on the basement door. Approximately twenty to thirty seconds later, Subject 1 reappeared from the back basement door and began running up the stairs into the backyard. Once Subject 1 reached the top of the stairs, Officer C saw Subject 1 point his firearm in Officer Sheriff C's direction. Officer C discharged his firearm at Subject 1 approximately five to seven times.

Subject 1 fell and took cover behind the concrete wall of the basement stairwell. Officer C stopped discharging his firearm. Subject 1 was still yelling that he was going to kill the officers. Officer Sheriff C then observed Subject 1's gun above the ledge pointing towards the garage. Subject 1 kept his body behind the concrete wall but he raised his gun above his head.

When Officer Sheriff C saw the firearm pointed towards the garage, he again discharged his firearm at Subject 1. Officer Sheriff C also believed that Officer B discharged his firearm at Subject 1. After Subject 1's gun was no longer visible over the ledge, the officers ceased their gunfire. After this second volley of gunfire, Officer

⁷ Hostage Barricade Team.

⁸ Officer C described the uniform as a green BDU SWAT uniform.

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C reloaded his firearm. Officer C recalled Subject 1 still being combative at this time and stating that he had one more bullet and was going to take one of the officers with him.

Officer Sheriff C stated that Sergeant A threw two flashbangs towards Subject 1. The first rolled back at the officers but the second discharged near Subject 1 in the stairwell. Subject 1 retreated into his house through the basement door. Officer Sheriff C observed Subject 1 lying on the basement floor and that he dropped his gun. Officer C directed Subject 1 to crawl to the backyard for medical attention. (Att. 38)

In an **interview with IPRA** on August 5, 2015, **Involved Officer B, #XXXXX**, stated that on July 29, 2015, he was on duty in his BDU, battle dress uniform,⁹ when he was alerted to a barricaded subject incident at XXXX S. Calumet Ave. Officer B and his team arrived at the scene at approximately 8:30 p.m. Officer B was a member of the Chicago Police SWAT team and his rank was team leader.

Officer B was directed to the detached garage in the back of the house. Officer B entered the garage and called for a ballistic blanket to cover a window next to the garage entry door. The garage was approximately ten to fifteen feet from the house and the back of the house had a basement door that could be accessed by walking down five or six steps in a stairwell.

While in the garage, Officer B learned that the barricaded subject was Subject 1 and that he was a former Chicago Police Officer with a military background. Officer B also heard on his radio that attempts were being made to negotiate surrender with Subject 1. Officer B also recalled that Subject 1' sister and ex-wife attempted to contact Subject 1 to have him surrender. Officer B heard Subject 1 yelling at various times including him telling the officers that he was going to kill them.

Officer B stated that his team was directed to introduce tear gas into the house. Officer E used a launcher to shoot a canister of tear gas into a second floor window on the back of the house. Officer B directed his team to put on their gas masks in preparation for possible entry into the house.

Approximately three minutes after the gas was introduced into the house, Officer B heard on his radio that Subject 1 had exited the house through the front door with a gun in his hand. Officer B next heard that Subject 1 was moving to the rear of the house. Officer B observed Subject 1 exit the basement door from the back of the house with a pistol in his hand.

Subject 1 approached the garage entry door and began battering his shoulder into the door to gain access to the garage. Officer B put his foot in front of the door and kept the door shut. Subject 1 appeared to be very agitated and began screaming at the officers in the garage. Officer B yelled at Subject 1 to drop his gun.

Subject 1 broke the garage window with his gun and began pointing the gun into the garage. Officer C moved the ballistic blanket in front of the opening and the gun began pressing against the ballistic blanket through the window. Officer B stated that he had no doubt that Subject 1 was trying to kill him with his gun.

After the gun was pointed into the garage for approximately three seconds, Subject 1 returned to the house through the basement door. Subject 1 almost immediately came back outside and pointed his gun towards the officers. At this time, Officer C discharged his firearm at Subject 1 from inside the garage. Officer B also opened the garage entry door and discharged his firearm at Subject 1 approximately eight to ten times.

⁹ Officer B described the uniform as a "green BDU, ugly green BDU."

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Subject 1 retreated behind the concrete wall of the basement stairwell and there was a lull in the shooting. Officer B stepped outside of the garage and Subject 1 began pointing his gun at the officers over the ledge of the concrete wall. Officer B and Officer C again discharged their firearms at Subject 1.

The officers stopped firing and Sergeant A threw a flashbang towards Subject 1. The first flashbang did not discharge near Subject 1 but Subject 1 yelled that he had one more bullet and was going to take one of the officers with him. Sergeant A threw another flashbang into the stairwell that discharged near Subject 1. Subject 1 stood up in the stairwell and pointed his gun towards the officers. Officer B again fired his weapon at Subject 1 approximately ten times. Subject 1 retreated into the house through the basement door. Officer B reloaded his firearm.

Officer B heard Officer C giving Subject 1 verbal direction and he saw Subject 1 lying on the basement floor without a gun in his hands. Subject 1 told the officers that he needed medical attention and demanded the officers come into the basement to get him. Officer C told him that he would need to crawl outside and Subject 1 crawled to the stairwell. The officers placed Subject 1 under arrest and later found Subject 1's gun on the basement floor. (Att. 40)

In an **interview with IPRA** on August 12, 2015, **Involved Officer A, #XXXXX**, stated that on July 29, 2015, he was on duty in his BDU, battle dress uniform,¹⁰ when he was alerted to a barricaded subject incident at XXXX S. Calumet Avenue. When Officer A arrived at the scene at approximately 9:45 p.m., he put on his heavy armor equipment and reported to Command. Officer A learned that the barricaded subject was Subject 1 and he was a former Chicago Police Officer. Officer A also learned that Subject 1 had a gun and a large dog in the house. Officer A was assigned to the back of the house and once he relocated to the back of the house, he checked in with his team leader, Officer B.

For the next several hours, officers attempted to negotiate with Subject 1 to get him to surrender. At approximately 3:05 a.m., Officer A's team was given instructions to introduce tear gas into the house. Officer E used a launcher to shoot a canister of gas into a second floor window on the back of the house. Subject 1 then exited the house through the front door and was screaming obscenities at the officers. Subject 1 returned to the house and, soon after, Officer B reported that Subject 1 was exiting the back of the house with a gun.

Officer A was standing outside of the garage observing the side of the house when he heard Officer B's radio transmission and then heard Subject 1 banging on the garage door. Officer A heard the officers inside yelling at Subject 1 to drop the gun and then heard glass break. Officer A began to move forward towards the backyard and heard gunshots.

Officer A continued moving along the side of the garage and when he could view the backyard, he did not see anyone. Officer A then heard additional gunshots and he crouched on his knee to see into the concrete stairwell to the basement door. Officer A could not identify who was firing the gunshots. While observing the stairwell, Officer A observed Subject 1 with a pistol raised above his head pointed towards the garage. Subject 1 was yelling that he was going to kill all of the officers and take at least one of the officers with him.

Sergeant A threw a flashbang toward Subject 1 but it rolled back towards the officers. Sergeant A threw a second flashbang into the stairwell and it discharged near Subject 1. There was a large amount of smoke but Officer A observed Subject 1 still pointing his gun towards the officers. Officer A did not have a clear shot at Subject 1 at this time. Officer A then observed Subject 1 stand up very fast with his weapon and Officer A

¹⁰ Officer A described the uniform as a green BDU uniform.

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discharged his firearm one time towards Subject 1. Other officers also discharged their firearms at Subject 1 and Subject 1 retreated back into the house.

Subject 1 began yelling that he had been shot and requested that the officers get him an ambulance. Sergeant A and Officer C directed Subject 1 to show his hands and crawl out to the backyard. Subject 1 complied and the officers placed him under arrest. Officer A assisted Officer D in carrying Subject 1 to the alley and they began giving him medical attention. They placed Subject 1 onto a board and brought him to an ambulance that was stationed outside the “hot zone.”¹¹ (Att. 52)

In an **interview with IPRA** on March 28, 2016, **Witness Sergeant B, #XXXX**, stated that on July 29, 2015, he was in plain clothes and learned of a barricaded subject incident at XXXX S. Calumet Avenue. Sergeant B was a negotiator for the Chicago Police SWAT team. Sergeant B responded to the scene at approximately 8:30 p.m. and began by interviewing the Sheriffs who had attempted to serve a warrant on Subject 1. Sergeant B received permission from CPD Deputy Chief to speak to Subject 1 and Sergeant B called Subject 1’ cell phone. The call was not answered.

Sergeant B continued gathering information from inside his command van via computer inquiries. Sergeant B also interviewed Subject 1’s ex-wife and sister. His ex-wife stated that Subject 1 was a former Chicago Police Officer assigned to the 15th District. She also stated that she moved to Las Vegas with Subject 1 and that is why he ended his employment with the Chicago Police. Subject 1’ ex-wife stated that he was former military and had access to weapons inside the house. Lastly, she stated that Subject 1 had recently became violent and struck her, resulting in the warrant for his arrest. Subject 1’ sister generally reported the same background information and also added that Subject 1 may suffer from paranoia and may be abusing narcotics, specifically cannabis with PCP.

Subject 1 returned Sergeant B’ call from his cell phone. Subject 1 was very loud, upset, and was yelling unintelligible words. Sergeant B attempted to calm him down and explained who he was. Subject 1 did not believe that Sergeant B was the police and he hung up the phone. Sergeant B continued to call him and they had approximately four brief conversations before Subject 1 ended the call. Sergeant B recalled that Subject 1 requested \$15 million and a corned beef sandwich with a pickle.

Subject 1 stopped answering Sergeant B’ calls and the calls began going straight to voicemail. Sergeant B and two other negotiators entered an armored SWAT vehicle and approached the front of the house. Another negotiator used a PA system to tell Subject 1 to answer the phone and to turn on a light to show that he could hear them. The negotiators also brought Subject 1’s sister to the front yard to speak to him but that did not have any effect. Sergeant B remained at the scene until Subject 1 was arrested but he did not hear any of the gunshots. (Att. 87)

Video & Audio Evidence

The **Office of Emergency Management and Communication (OEMC) Event Queries** were collected and made part of this case file. On July 29, 2015, at 8:03 p.m., an event was reported describing a barricade incident at Calumet and 47th Street with a staging point at Calumet and 49th Street. On July 30, 2015, at 3:07 a.m., two tear gas canisters were deployed into the barricaded residence at XXXX S. Calumet Avenue. At 3:12 a.m., multiple shots were fired at the barricaded residence. At 3:16 a.m., officer calls were made for an ambulance to the residence. (Att. 25, 53)

¹¹ Officer A stated the house was still considered “hot” because it had not been cleared yet.

Forensic Evidence

Evidence Technician Photographs and Video depict the scene and the recovered evidence including several shell casings inside the garage and in the backyard, and two gas canisters near the back of the house. The photographs and video depict a broken garage window next to the entry door and a riot shield inside the garage behind the door. The photographs and video also depict blood stains on the concrete walkway in the backyard near the stairwell to the basement door. The photographs and video of the basement depict additional blood stains on the floor, a handgun lying on the floor, a loaded gun magazine on a table. There are also several bullet holes in the walls near the basement exterior entry and in the basement doors. The photographs and video also depict exterior windows of the house with large holes that appear to have been caused by the officers firing tear gas canisters into the house. (Atts. 37, 44, 45, 46, 47, 48)

CPD Crime Scene Processing Reports XXXXXXX and XXXXXXX completed on July 30, 2015 document the evidence identified, collected, and inventoried in connection with this incident. A summary of that information is as follows:

The gun in the possession of Subject 1 was a Smith & Wesson model SW40VE, .40 caliber, semi-automatic pistol, with an expired City Registration #R017816S, and Inventory #XXXXXXXX. The evidence technicians recovered fourteen (14) Winchester 40 S & W cartridges from the firearm.

Officer A's gun was a Smith & Wesson model M & P, 223 caliber, rifle, Registration #XXXXXXXX, and Inventory #XXXXXXXX. The gun magazine had a thirty (30) shot capacity and there were twenty-six (26) Winchester 223 REM cartridges recovered from the magazine and one (1) Winchester 223 REM cartridge recovered from the chamber.

Officer Sheriff C's gun was a Bushmaster model XM15-E2S, 223 caliber, rifle, Registration #XXXXXXXX, and Inventory #XXXXXXXX. The gun magazine had a thirty (30) shot capacity and there were thirty (30) Winchester 223 REM cartridges recovered from the magazine and one (1) Winchester 223 REM cartridge recovered from the chamber.

Officer B's gun was a Bushmaster model XM15-E2S, 223 caliber, rifle, Registration #XXXXXXXX, and Inventory #XXXXXXXX. The gun magazine had a thirty (30) shot capacity and there were twenty-eight (28) Winchester 223 REM cartridges recovered from the magazine and one (1) Winchester 223 REM cartridge recovered from the chamber. Forensic Investigators also processed a gun magazine, Inventory #XXXXXXXX, from Officer B which had a capacity of thirty (30) and contained three (3) Winchester 223 REM cartridges.

There were two other gun magazines inventoried. One gun magazine, Inventory #XXXXXXXX, had a capacity of thirty (30) and contained nine (9) Winchester 223 REM cartridges.¹² The second gun magazine, Inventory #XXXXXXXX, had a capacity of fourteen (14) and contained fourteen (14) Winchester .40 S&W cartridges.¹³ Forensic Investigators also administered a gunshot residue (GSR) kit to Subject 1 while at Stroger Hospital in the emergency room. (Atts. 15, 16)

¹² This gun magazine is believed to have belonged to Officer C. The gun magazine was recovered from a table in the garage near the entry door at the location of incident.

¹³ This gun magazine is believed to have belonged to Subject 1. The gun magazine was recovered from an end table next to a chair in the basement at the location incident.

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Illinois State Police (ISP) Forensic Science Laboratory Reports dated October 8, 2015, October 9, 2015, May 24, 2016, September 8, 2016, and February 4, 2016, document that the gun in the possession of Subject 1 was a Smith & Wesson model SW40VE, .40 caliber, semi-automatic pistol, Serial #XXXXXXX, Inventory #XXXXXXX, was examined and operable. ISP entered the information related to a test fired cartridge case from the pistol into the Integrated Ballistics Identification System (IBIS) database but did not find any additional information through that search.

ISP also examined Officer Sheriff C's gun, a Bushmaster model XM15-E2S, 223 Remington/5.56 caliber select fire rifle, Serial #XXXXXXX, Inventory #XXXXXXX, and a gun magazine, was examined and found that it was operable.

Officer B's gun, a Bushmaster model XM15-E2S, 223 Remington/5.56 caliber select fire rifle, Serial #XXXXXXX, Inventory #XXXXXXX, and a gun magazine, was examined and found that it was operable.

Officer A's gun, a Smith & Wesson model M & P, 223 Remington/5.56 caliber select fire rifle, Serial #XXXXXXX, Inventory #XXXXXXX, and a gun magazine, was examined and found that it was operable.

Subject 1' weapon, Inventory #XXXXXXX, was examined and revealed no latent impressions suitable for comparison. A swab¹⁴ from Subject 1' weapon was examined and compared to a buccal standard from Subject 1. A human male DNA profile was identified from Subject 1' weapon which matched the DNA profile of Subject 1. In addition, the GSR kit, Inventory #XXXXXXX, administered to Subject 1 revealed that Subject 1 discharged a firearm, contacted a PGSR¹⁵ related item, or had his right hand in the environment of a discharged firearm. (Atts. 90, 92-95)

Medical Reports

A Chicago Fire Department Ambulance Report documents that Ambulance 38 arrived at the scene on July 30, 2015, at 3:24 a.m. They reported one individual shot at the scene. Paramedics treated Subject 1 and departed the scene with Subject 1 at 3:44 a.m. Subject 1 was transported to Stroger Hospital and arrived there at 3:55 a.m. (Att. 23)

Medical Records from Stroger Hospital document that on July 30, 2015, Subject 1 received treatment for multiple gunshot wounds. Subject 1 had one gunshot wound to his left wrist, one gunshot wound to his left arm, one gunshot wound to his right hand, one gunshot wound to his right flank, and one gunshot wound to his left foot. (Att. 88)

Other Documentary Evidence

A Tactical Response Report (TRR) completed by **Sergeant Sergeant A, #XXXX**, documents that Subject 1 did not follow verbal direction, fled, presented an imminent threat of battery, attacked with a weapon, and used force likely to cause death or great bodily harm with a weapon. Sergeant A responded with member's presence. (Att. 7)

A Tactical Response Report (TRR) completed by **Officer Officer C Jr., #XXXX**, documents that Subject 1 did not follow verbal direction, fled, presented an imminent threat of battery, attacked with a weapon,

¹⁴ Blood was indicated on the pistol, Att. 93.

¹⁵ Primer Gunshot Residue.

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and used force likely to cause death or great bodily harm with a weapon. Officer C responded with member's presence, verbal commands, and discharged his firearm eighteen (18) times. (Att. 9)

A Tactical Response Report (TRR) completed by **Officer B, #XXXXXX**, documents that Subject 1 did not follow verbal direction, fled, presented an imminent threat of battery, attacked with a weapon, and used force likely to cause death or great bodily harm with a weapon. Officer B responded with member's presence, verbal commands, and discharged his firearm twenty-three (23) times. (Att. 13)

A Tactical Response Report (TRR) completed by **Officer A, #XXXXXX**, documents that Subject 1 did not follow verbal direction, fled, presented an imminent threat of battery, attacked with a weapon, and used force likely to cause death or great bodily harm with a weapon. Officer A responded with member's presence, verbal commands, and discharged his firearm one (1) time. (Att. 11)

The Officer's Battery Report (OBR) completed by **Sergeant A** documents that he was on a SWAT Team responding to an HBT incident when he was ambushed by a man with a firearm on July 30, 2015, at approximately 0310 hours, at XXXX S. Calumet Avenue. The subject, Subject 1, pointed a firearm at an officer. Sergeant A did not sustain any injuries. (Att. 8)

The Officer's Battery Report (OBR) completed by **Officer C** documents that he was on a SWAT Team responding to an incident involving a man with a firearm on July 30, 2015, at approximately 0310 hours, at XXXX S. Calumet Avenue. The subject, Subject 1, pointed a firearm at an officer. Officer C did not sustain any injuries. (Att. 10)

The Officer's Battery Report (OBR) completed by **Officer B** documents that he was on a SWAT Team responding to an incident involving a man with a firearm on July 30, 2015, at approximately 0310 hours, at XXXX S. Calumet Avenue. The subject, Subject 1, pointed a firearm at an officer. Officer Torres did not sustain any injuries. (Att. 14)

The Officer's Battery Report (OBR) completed by **Officer A** documents that he was on a SWAT Team responding to an incident involving a man with a firearm on July 30, 2015, at approximately 0310 hours, at XXXX S. Calumet Avenue. The subject, Subject 1, pointed a firearm at an officer. Officer A did not sustain any injuries. (Att. 12)

The Cook County Sheriff's Police Department Incident Report stated that during a warrant investigation, three Investigators arrived at XXXX S. Calumet Avenue, at 7:13 p.m. on July 29, 2015. One investigator approached the front of the house and the two other investigators covered the back of the house. The wanted subject, Subject 1, was identified through a basement window and stated, "Fuck you, get the fuck away from my house, fuck off." Subject 1 next exited the front door with a large dog and stated to the Investigators, "Fuck you, if you want me, come and get me." One investigator informed Subject 1 that he had an Order of Protection and requested that he step on to the porch to receive the papers. Subject 1 responded by stating, "I've got something for you" and retreated back into the residence. Subject 1 immediately returned outside holding a firearm. Subject 1 then returned to the house and closed the front door. The Investigators called for additional units and continued their discussion with Subject 1. The Investigators told Subject 1 that the warrant was for his arrest related to a domestic issue. Subject 1 became very hostile stating that the petitioner in the case was crazy. Subject 1 continued cursing at the Investigators and stated "Fuck you, come and get me. I'm not going to jail." (Att. 60)

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CPD's Bureau of Internal Affairs conducted an **alcohol and drug test** of involved Officers B, Officer, and Sheriff C on July 30, 2015, beginning at 7:21 a.m. The officers' tests came back negative for alcohol and drugs. (Att. 39)

The **IPRA Preliminary Report** and the **CPD's Major Incident Notification (MIN) Report** contains information related to the charges against Subject 1 which included four counts of Aggravated Assault to a Peace Officer with a Weapon and one count of Domestic Battery. (Att. 4, 36)

Court Records document that Subject 1 criminal case, 15 CR 1327601, is still pending. (Att. 96)

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ANALYSIS

Based on the totality of the circumstances, the uses of deadly force by Officer C, Officer B, and Officer A against Subject 1 were objectively reasonable, and therefore, **Within Department Policy**. A preponderance of the evidence demonstrates that Subject 1 presented an imminent threat of death or great bodily harm to the officers because Subject 1 pointed a gun into a garage occupied by several officers, and subsequently continued to point his gun towards the garage. As such, the uses of deadly force by Officer Sheriff C, Officer B, and Officer A against Subject 1 were objectively reasonable and, therefore, within Department policy as outlined by the Chicago Police Department's General Order 03-02-03, II; and the Illinois State statute. Officer Sheriff C's, Officer B's, and Officer A's uses of force also complied with applicable constitutional standards.

CPD Policy, Illinois State Statute, & Constitutional Standards

The applicable Chicago Police Department's General Order is 03-02-03, II, which states that a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. To prevent death or great bodily harm to the sworn member or to another person, or;
2. To prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a) has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b) is attempting to escape by use of a deadly weapon or;
 - c) otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

In addition, the use of deadly force is codified under 720 ILCS 5/7-5 (1986). The pertinent part of the statute states that:

...a peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person...

Finally, determinations regarding the potential use of excessive force in the course of an arrest, investigatory stop, or other seizure are properly analyzed under the Fourth Amendment's objective reasonableness standard. The question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Graham v. Connor*, 490 U.S. 386, 397 (1989). See *Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 592 (7th Cir. 2003). The following factors are instructive in making the determination of whether an officer's use of force is reasonable: (1) "the severity of the crime at issue;" (2) "whether the suspect poses an immediate threat to the safety of the officers or others;" and (3) whether he is actively resisting arrest or attempting to evade arrest by flight." *Graham*, 490 U.S. at 396 (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)). This reasonableness calculation 'must embody

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allowance for the fact that police officers are often forced to make split second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham*, 490 U.S. at 396-97. Consequently, “when an officer believes that a suspect’s actions [place] him, his partner, or those in the immediate vicinity in imminent danger of death or serious bodily injury, the officer can reasonably exercise the use of deadly force.” *Muhammed v. City of Chicago*, 316 F.3d 380, 383 (7th Cir. 2002) (*quoting Sherrod v. Berry*, 856 F.2d 802, 805 (7th Cir. 1988) (*en banc*) (omitting emphasis)).

Officer-Involved Shooting

There is a preponderance of evidence showing that Officer Sheriff C, Officer B, and Officer A reasonably believed that deadly force was necessary to prevent Subject 1 from causing death or bodily harm to the officers or others. First, when the Involved Shooting Officers discharged their firearms, Subject 1 had been barricaded in his house with a gun for over seven hours and had repeatedly yelled at officers that he was going to kill them. Second, Subject 1 pointed his gun in the direction of the Involved Shooting Officers on several occasions, including in the instances when the officers discharged their firearms at Subject 1. Accordingly, Officer Sheriff C’s, Officer B’s, and Officer A’s uses of force were reasonable, and therefore, **Within Department Policy**.

1. **The Involved Shooting Officers were aware that Subject 1 had a gun and heard him threaten to kill the Officers:**

At the time of the officer-involved shooting, the Involved Shooting Officers were aware that Subject 1 had been barricaded in his house with a gun for over seven hours. Also, the Involved Shooting Officers stated that they heard Subject 1 angrily yelling from inside his house and when he was in the backyard. In addition to obscenities, the officers heard Subject 1 yell that he was going to kill the officers.

The fact that Subject 1 was armed, alone, is not justification for the use of deadly force against him. Pursuant to law and Department policy, the Officers’ use of deadly force must have been predicated on the need to use force to address an imminent threat to the officers or others. However, the fact that Subject 1 was armed and yelling threats that he was going to kill the officers in the moments preceding him being shot by the officers, is probative as to whether the officers were reasonable in their belief that Subject 1 was a threat.

2. **The Involved Shooting Officers were reasonable in their belief that Subject 1 was a threat because he pointed his gun at the Officers on several occasions:**

In the minutes leading up to the officer-involved shooting, Subject 1 exited his house and attempted to gain entry into his detached garage, where several Chicago SWAT officers were stationed. When his entry was blocked by the officers, he broke a garage window with his gun and pointed the gun into the garage at the officers stationed inside. Subject 1 went back into his house but almost immediately returned to the backyard, still carrying his gun. At this point, the officers had given him several verbal warnings to drop his gun.

As Subject 1 advanced towards the garage, he pointed his gun towards the officers in the garage. At this time, Officer C and Officer B discharged their firearms at Subject 1 several times. Officer Sheriff C’s and Officer B’s uses of force were reasonable during this volley of gunfire because Subject 1, then pointing his gun toward several officers, posed an imminent threat to the officers, as well as the other officers positioned inside the garage.

Subject 1 then took cover behind a concrete wall of his basement stairwell and held his gun above the ledge of the wall. Subject 1 continued pointing his gun towards the officers in the garage. At this time, all three Involved Shooting Officers discharged their firearms at Subject 1. The Involved Shooting Officers’ uses of force

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was reasonable during this second volley of gunfire because Subject 1 posed an imminent threat to the officers, as well as the other officers positioned inside the garage, when he pointed the gun towards the garage.

The fact that Subject 1 was pointing his gun directly at the Involved Shooting Officers, or other officers, demonstrates that the officers were reasonable in their belief that Subject 1 presented an imminent threat to the officers and others.

CONCLUSION AND FINDING

Because Officer Sheriff C, Officer B, and Officer A reasonably believed that Subject 1 presented an imminent threat to the officers and others, the officers were authorized to use deadly force against Subject 1. The evidence clearly shows that an officer with similar training and experience would reasonably believe that Subject 1 posed an immediate threat of death or serious bodily harm to the officers and the public. Accordingly, Officer Sheriff C's, Officer B's, and Officer A's uses of deadly force was objectively reasonable as outlined by the Chicago Police Department's General Order 03-02-03, II; and the Illinois State statute. Officer Sheriff C's, Officer B's, and Officer A's uses of force also complied with the Fourth Amendment.